



Future of Florida's Families Committee Interim Project

Implementation of State Policy on Reunification: Is It Working?

**The Honorable Bill Galvano, Chair
February 2006**

Future of Florida's Families Committee Interim Project

Implementation of State Policy on Reunification: Is It Working?

Staff Contact: Karen Halperin, Intern, Health & Families Council
Staff Director: Lucretia Shaw Collins, Future of Florida's Families

TABLE OF CONTENTS

Executive Summary

Family Reunification in Policy and Practice

Background

Empirical Findings on Reunification and Other Permanency Options

Pilot Programs for Family Reunification

Overview of Federal and State Legislation

Adoption and Safe Families Act of 1997 (ASFA)

Consistency between Florida Statutes and ASFA

Federal and State Goals for Child Welfare and Family Reunification

Florida Status on CFSRs

Common Standards for Decisions on Reunification

DCF Procedure and Standards for Reunification

Standards as they Relate to Interactions between DCF and Court Decisions

Implications and Recommendations

Appendix

Executive Summary

Federal and state law defines the safety of the child as the foremost consideration in deciding if and when a child should be returned home after foster care. Still, law and custom recognize the paramount rights of parents to maintain custody and care of their children. For children in foster care, family reunification is usually considered the primary and ideal goal for permanency. However, the presumption that reunification is in the child's best interest is often betrayed by evidence of repeated neglect, abuse, and reentry into the welfare system.

The motivation for this project is to investigate where and why breakdowns in safety may occur in the process of reunifying children with their families. Reports of children being returned home only to encounter further maltreatment are disheartening and indicate the need to look critically at the standards and processes of decisions to reunify.

Breakdowns in the system may occur at multiple points. An analysis of existing research and our current welfare system points to five areas where lawmakers could pursue additional studies or reform:

1. The safety standards themselves
2. The process and instruments of case assessment
3. Agency and court interactions in decision-making
4. Criminal codes on abuse and neglect
5. Post-reunification services

This report presents background on the policy and legal context of family reunification and standards for child welfare outcomes. It then outlines how Florida statutes compare to federal guidelines, summarizes how Florida performs on outcome standards, and describes the processes of case assessment used by the Department of Children and Families (DCF). Finally, the report presents recommendations that policymakers may choose to pursue regarding child safety and reunification.

Family Reunification in Policy and Practice

Background

After children are placed in foster care, social workers develop permanency plans based on evaluations of the child's needs and family circumstances. Plans are then reviewed in court. In most cases, the permanency plan aims for reunification with birth parents; indeed, it is the most frequently stated permanency planning goal for children in care.¹ At the very least, states are required to make "reasonable efforts" to support parents in regaining custody.²

Family reunification involves multiple legal and policy perspectives. The foremost legal considerations relate to parental rights.³ The presumption is that children thrive better when raised by their natural parents, and this presumption is codified in law. Parents have the right to determine their child's care and are presumed to act in the child's best interest. Parental rights typically trump those of the child, relatives, third parties, and the state. These responsibilities include "medical treatment, educational and religious decision making, physical and emotional care, and financial support" and maintain the rationale for considering reunification as the ideal outcome for children in foster care.⁴

Recognizing these fundamental rights, the U.S. Supreme Court requires clear and convincing evidence of unfitness before termination of parental rights. Policy is to favor the preservation of family bonds whenever there is still reason to believe that good relationships exist between the parent and child.⁵ In other words, until a permanent decision is made regarding a parent's fitness or willingness to perform parental obligations, the primary goal of welfare services must be to return the child home.⁶ Even after a parent has been deemed unfit, it is often still presumed that reunification is in the child's best interest. At that point, the court conducts separate "best interests" analyses to establish if the child should remain with the parent or be placed elsewhere.

Empirical Findings on Reunification and Other Permanency Options

The presumption that family reunification is in the child's best interest may often be inaccurate or detrimental to a child's long-term welfare, even in cases where there is no

¹ U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau. *AFCARS, Report #8*. Washington, DC: U.S. Government Printing Office, March 2003. Available online at <http://www.acf.hhs.gov/programs/cb/publications/afcars/report8.htm>, note 12.

² Bass, S., Shields, M., and Behrman, R. *Children, Families, and Foster Care: Analysis and Recommendations*. *The Future of Children report by Brookings*. Vol. 14, No.1, Winter 2004.

³ Wulczyn, F. Family Reunification. http://www.futureofchildren.org/usr_doc/6-wulczyn.pdf, 2005.

⁴ Wulczyn, F., Zimmerman, E., and Skyles, A. *Relative caregivers, kinship foster care, and subsidized guardianship: Policy and programmatic options*. Chicago: Chapin Hall Center for Children, University of Chicago, 2002.

⁵ *Santosky v. Kramer*, 455 U.S.745 (1982). See also *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978); *Troxel v. Granville*, 530 U.S. 57 (2000); and *Parham v. J.R.*, 442 U.S. 584 (1979).

⁶ Wulczyn, F. Family Reunification. http://www.futureofchildren.org/usr_doc/6-wulczyn.pdf, 2005.

further maltreatment or reentry to foster care.⁷ Research suggests reunified children demonstrate significantly poorer “behavioral and life course outcomes” including greater levels of the following, measured six years after leaving foster care: arrests, school dropouts, lower grades, substance abuse, delinquency, and adolescent pregnancy.⁸ The authors of the study suggest that “the study’s findings strongly caution us against presuming that children who return to live with their parents have achieved positive outcomes.”⁹ The results further imply that measuring the success of reunification based only on rates of reentry fails to capture other indicators of child welfare.

The Multi-state Foster Care Data Archive (MFCDA) evaluated longitudinal data on about 1.3 million foster children in 12 states, over ten years. Findings from these data on reunification and reentry suggest that:

Most children are reunified

- Reunification was the most common type of exit for children entering care in 1990.
- About 57% of children in foster care exit through reunification with birth parents.¹⁰

The age of the child predicts reunification

- Among babies, adoption was the most common exit type.
- For children over one year of age, reunification was the most common exit type.
- Adolescents were not regularly adopted, and were often listed as either “aged out of placement,” or “absent without leave.” Some were placed with other family members.

Race and ethnicity of the child matters

- Caucasian children are more likely to be reunified than African American children.
- African American children were also more likely to still be without a permanent home ten years after the initial placement.

The length of stay in foster care is correlated with exit type

- Reunification is most likely to occur early rather than later. During a child’s first year in foster care the likelihood of reunification is about 28%.
- This drops to about 16% after the first year and continues to decline.

⁷ Taussig, H.N., Clyman, R.B., and Landsverk, J. Children who return home from foster care: A 6-year prospective study of behavioral health outcomes in adolescence. *Pediatrics* (July 2001) 108(1):E10.

⁸ It should be noted that other factors may lead to this outcome. Children reunified with birth families may move back into high-risk neighborhoods, underperforming school, etc.

⁹ Taussig, H.N., Clyman, R.B., and Landsverk, J. Children who return home from foster care: A 6-year prospective study of behavioral health outcomes in adolescence. *Pediatrics* (July 2001) 108(1):E10.

¹⁰ Note 8, U.S. Department of Health and Human Services, Administration on Children, Youth and Families. *Child maltreatment 2001*. Washington DC: U.S. Government Printing Office, 2003. Available online at <http://www.acf.hhs.gov/programs/cb/publications/cm01/outcover.htm>.

Reunification declined during the 1990s

- Reunification decreased and adoption increased during the same period of time.
- The 1997 cohort had a 13% slower reunification rate than the 1990 cohort.¹¹

Rates of reentry are highest for children who are reunified quickly

- Reentry after reunification is most common within the first year.¹²
- About 70% of children returning to foster care did so within a year of reunification and of these, 57% returned within three months.

Additionally, the risk of reunification is highest for:

- African American children.
- Children who were initially placed for reasons of neglect are 44% more likely to experience recurrence of maltreatment than are physically abused children.
- Children with serious medical and/or behavioral problems.

Pilot Programs for Family Reunification

Reunification has proven more successful when states and counties have active and supportive reunification services for families, before and after the reunification takes place. Pilot programs testing different types of reunification services suggest directions that state policymakers may want to pursue. The following two programs were reviewed by the National Conference of State Legislatures:¹³

- A study in Utah examined the effect of intensive, in-home reunification services. The services began about two weeks prior to reunification and lasted for 90 days. At this point, 93 percent of the families assigned to the treatment group were reunified, compared to 28 percent of families in the control group. One year later, more than 75 percent of the children in the experimental group were still at home, compared to 49 percent of children in the control group. Six years later, differences between the groups were maintained.¹⁴
- A Virginia program incorporated a mix of reunification services including “intensive family preservation services, visits by the birth family while the child was in care, contact between birth and foster families, increased agency support for foster families, and specialized foster family training. One year after reunification, 91 percent of the reunified children were still living with their families.”¹⁵

¹¹ <http://www.openminds.com/indres/fostercare.pdf>.

¹² U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau. *AFCARS, Report #8*. Washington, DC: U.S. Government Printing Office, March 2003. Available online at <http://www.acf.hhs.gov/programs/cb/publications/afcars/report8.htm>, note 11.

¹³ <http://www.ncsl.org/programs/cyf/slr2612.htm> NCSL: Christian, Steve. Returning Home From Foster Care: What Policymakers Need to Know. December 2001 – Vol. 26, No. 12.

¹⁴ Walton, E., et al., "In-Home Family-Focused Reunification: An Experimental Study," *Child Welfare* LXXII, no. 5 (Sept.-Oct. 1993): 473-487. Elaine Walton, "In-Home Family-Focused Reunification: A Six-Year Follow-Up of a Successful Experiment," *Social Work Research* 22, no. 4 (Dec. 1998): 205-214.

¹⁵ Gillespie, J., Byrne B., and Workman L., "An Intensive Reunification Program for Children in Foster Care," *Child and Adolescent Social Work Journal* 12, no. 3 (June 1995): 213-228.

Most states lack an intensive model of family reunification. The following suggestions from the National Family Preservation Network are meant to improve the implementation of a state's intensive family reunification services:

- Offer intensive family reunification services on a statewide basis.
- Target families who are not likely to reunify within 6 months, absent intensive services, using a proven assessment tool.
- Develop intensive reunification services based on proven, research-based models.
- Implement standards for best practice.
- Provide specialized training to all reunification staff.
- Use a research-based assessment tool to identify factors in successful reunifications and track reentry into out-of-home placements.
- Fund a committed intensive family reunification services manager.
- Evaluate services on an annual basis.¹⁶

Overview of Federal and State Legislation

Although courts have broad discretion in determining outcomes in individual cases, federal policy does impose some direction for how case workers and courts should approach family reunification. There are three major pieces of social legislation relevant to family reunification and child welfare:

1. The Indian Child Welfare Act of 1978 (ICWA)
2. The Adoption Assistance and Child Welfare Act of 1980 (AACWA)
3. The Adoption and Safe Families Act of 1997 (ASFA)

The ICWA contains language strongly favoring family preservation. It requires clear and convincing evidence for even temporary foster care placement, and requires proof beyond a reasonable doubt for permanent termination of parental rights. The AACWA also favors reunification. Its goals are first to prevent the removal of a child from the home by requiring states to make efforts to maintain them there, and second, to reunite children promptly if they had to be removed for their safety. The act provides fiscal incentives to states to inspire them to shorten foster care stays and to encourage permanency planning.

Adoption and Safe Families Act of 1997 (ASFA)

The passage of ASFA was inspired by the considerable increase in the foster care population during the 1980s and 1990s and its implementation represents a shift in orientation on reunification policy. For the first time in federal law, ASFA explicitly stated that a child's safety is paramount in decisions regarding: initial removal of the child from the home, foster care received, and choices on reunification. It further clarified that nothing in federal law requires a child to be returned to an unsafe home and provided

¹⁶ National Family Preservation Network. <http://www.nfpn.org/reunification/top#top>.

examples of cases where it would be “unreasonable” to reunify children with their families. Although ASFA provides funds for reunification services, an increased emphasis was given to adoption as a means for achieving permanency and stability.

The most significant changes attributable to ASFA include:¹⁷

- Shortening timelines: Permanency hearings moved from 18 months to 12 months.
- Eliminating long-term foster care as a permanent option and emphasizing that foster care is intended to be temporary.
- Giving states the right to concurrently plan for reunification and potential adoptive homes. Case planning for reunification and alternative permanency are implemented simultaneously. It requires an initial assessment of the family’s potential for reunification and identification of potential alternatives for permanent placement. Children are usually placed within a foster or kin family that is willing to adopt the child if reunification does not occur.
 - Research suggests this may help find permanent homes for children more efficiently.¹⁸
 - Others claim concurrent planning undermines reunification efforts. As of 2002, 37 states allowed for concurrent planning policies by statute.¹⁹
- Requiring states to file for parental termination when a child has been in foster care for 15 of the previous 22 months.
 - The state must have first attempted to make legitimate reunification efforts.
 - States do not have to recommend termination in cases where children are living in the care of relatives, or where their best interests are not served by adoption. The child welfare agency can also waive the termination requirement if case workers believe that birth parents are making progress in their case plans and may be able to reunify with their children soon.
- Clarifying when states do not have to make reasonable efforts to reunify families.
 - States do not have to attempt reunification in cases where the parent has killed another child or if the parents’ rights are already terminated for another sibling.
 - Recognizing kinship caregivers as legitimate placement options. States do not have to file for termination in cases where children are living in the care of relatives.

¹⁷ The Future of Children. Vol. 14, No. 1, Winter 2004. <http://www.openminds.com/indres/fostercare.pdf>

¹⁸ Katz, L. Concurrent planning: Benefits and pitfalls. *Child Welfare* (1999) 78(1):71–87.

¹⁹ U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau. *AFCARS, Report #8*. Washington, DC: U.S. Government Printing Office, March 2003. Available online at <http://www.acf.hhs.gov/programs/cb/publications/afcars/report8.htm>, note 13.

- Providing states with incentives to encourage adoption.
- Placing increased emphasis on accountability and safety by requiring states to develop standards to protect the health and safety of foster children. States must do so in order to receive federal funding. These include:
 - Criminal record checks of foster and adoptive parents.
 - Foster homes must be fully licensed to receive federal compensation for that care.
 - Giving foster parents and other caregivers the chance to speak at court hearings involving children in their care, and to challenge the quality of agency service.
- ASFA also authorizes funding for 15 months of intensive reunification services.

Consistency between Florida Statutes and ASFA

Florida statutes were amended in 1997 to reflect the provisions in ASPA and made explicit that child safety is the paramount consideration in decisions for placement. The DCF procedures manual for reunification was updated on December 1, 1998 with revised terminology and statutory citations to reflect changes in statute, including chapter 98-403, Laws of Florida; however, the document states that no substantive changes were necessary from the previous version.²⁰

As an interim project in 2006 the Florida Senate Children and Families Committee conducted a comprehensive review of federal and state child welfare policy with special attention to the provisions of ASFA. In summary, it was found that after the passage of ASFA in 1997, Florida made a few immediate changes to statutes to conform with federal guidelines, but inconsistencies remain between the two in three main areas of law: (1) “Reasonable efforts,” (2) Case planning, and (3) Permanency.²¹ The report further suggests that confusion among courts and caseworkers regarding state and federal law may account for some of the state’s lagging performance outcomes. To bring Florida in more complete compliance with ASFA, the Senate committee introduced SB 1080 (2006) that amends statutes in these three areas.

Section 827.03, F.S., defines abuse, aggravated abuse, and neglect of a child. Specifically, “child abuse” means the intentional infliction of harm on a child, an act that could be reasonably expected to result in injury, or the encouragement of such an act.²² “Aggravated child abuse” occurs when a person commits aggravated battery on a child, including acts such as willful torture, malicious punishment, caging, great bodily harm, or disability.²³ “Neglect of a child” indicates a “caregiver’s failure or omission to provide a

²⁰ DCF CFOP 175-38, December 1, 1998. <http://www.dcf.state.fl.us/publications/policies/175-38.pdf>

²¹ The Florida Senate Committee on Children and Families. *Interim Project Report 2006-104*. Sept. 2005.

²² Abuse is considered a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

²³ Aggravated child abuse is a felony of the first degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

child with care, supervision, and services necessary to maintain the child's physical and mental health." This includes, but is not limited to, food, shelter, clothing, medicine, medical services, and nutrition that a reasonable person would consider essential for well being. Neglect further indicates the failure to make reasonable efforts to protect the child from abuse, neglect, or exploitation by others. Neglect may be a single incident or repeated conduct.²⁴

Federal and State Goals for Child Welfare and Family Reunification

Federal law defines outcome requirements for family reunification, along with a host of other measures on child welfare. Compliance with ASFA is measured with the federal Child and Family Services Review (CFSR), which evaluates state performance on a range of family, systemic, and child outcomes related to goals of safety, permanency, and well-being for children in state care.²⁵ CFSRs were mandated by Congress in 1994 as the first attempt to systematically measure how well state child welfare agencies were doing in meeting national standards. Specifically in terms of family reunification, states are measured on two main bases:

1. Percentage of children reunified within 12 months of latest removal.
2. Percentage of children who reenter care within 12 months of a prior episode.

States are required to reunify 76.2% of children placed in out-of-home care within 12 months, with less than 8.6% of these children reentering foster care. As of 2004, 21 states met the national standard for reunification timing, but only two, Wyoming and South Carolina, also met the goal for reentries into foster care.²⁶

States not meeting federal standards are required to provide improvement plans describing how they plan to address deficiencies and are given two years to demonstrate progress. States that fail to show improvement may incur financial penalties. ASFA's implementing regulations became effective in March 2000 and added new requirements for state compliance with Title IV-B and Title IV-E of the Social Security Act. In order for states to accept federal funds under these titles they are required to follow ASFA.²⁷

Florida Status on CFSRs

In Florida's first review (2001-2002), the state achieved 19 of the 22 plan goals set out in the Performance Improvement Plan (PIP). The three goals that were not met include: (1) national standard on repeat maltreatment; (2) national standard on placement stability;

²⁴ Neglect resulting in serious harm is a felony of the first degree; neglect without injury is a felony of the third degree.

²⁵ The Florida Senate Committee on Children and Families. *Interim Project Report 2006-104*. Sept. 2005.

²⁶ U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau. *AFCARS, Report #8*. Washington, DC: U.S. Government Printing Office, March 2003. Available online at <http://www.acf.hhs.gov/programs/cb/publications/afcars/report8.htm>, note 11.

²⁷ The Florida Senate, footnote 18.

and (3) worker visits with children. Florida will be evaluated again in March 2006 and will avoid financial penalties if able to achieve the improvement goals. Florida initially lost \$3.6 million due to nonconformity on the 2001 CFSR but \$1.8 million has been rescinded so far due to the state's performance on the PIP.²⁸

The first two measures are especially relevant to this report. In the fiscal year starting July 1, 2004, 10.8 percent of child victims of maltreatment were subjects of subsequent reports within six months statewide; which is well over the target of 7 percent. During the same period of time, 8.51 percent of children who were reunified with their families reentered foster care within 12 months of a prior episode. The Florida goal for this measure is listed at 3 percent. Lastly, of the children reunified with their families between the same dates, 71.07 percent were reunified within twelve months. This again falls short of the 76.2 percent goal.²⁹

The goals of the state and federal guidelines may in some ways work against each other. For example, those states with the highest rates of reunification also have the greatest percent of reentry into foster care.³⁰ Approximately 20 percent of children reunited with their families reenter foster care within six years because of further mistreatment.³¹ Thus, by successfully achieving the reunification goal, a state may decrease the performance on other measures that are more important to child safety such as repeated maltreatment and return to foster care.

Common Standards for Decisions on Reunification

Poor outcomes from reunification may in part be the consequence of mistakes in the decision to reunify. These mistakes may result from the lack of discrete standards on which to base judgments. The legal standards for determining both parental unfitness and a child's best interests are not clearly defined and are not exact.³² Courts weigh facts on a case by case basis and regularly balance unique and competing interests. One study³³ cites four essential issues investigators consider in decisions on reunification:

1. *Parental compliance with conditions in their case plans.* Did birth parents actively participate in service referrals? Did their behavior change? How involved were they in the daily lives and schooling of their children?
2. *Safety of the home.* Is there evidence that parents had stopped the behaviors that could endanger the child?

²⁸ The Florida Senate, p. 3.

²⁹ Florida Department of Children and Families, Data Dashboard. <http://dcfdashboard.dcf.state.fl.us/>.

³⁰ <http://www.ncsl.org/programs/cyf/slr2612.htm> NCSL: Christian, Steve. Returning Home From Foster Care: What Policymakers Need to Know. December 2001 – Vol. 26, No. 12.

³¹ <http://www.ncsl.org/programs/cyf/slr2612.htm> NCSL: Christian, Steve. Returning Home From Foster Care: What Policymakers Need to Know. December 2001 – Vol. 26, No. 12.

³² Allen, M. and Bissell, M. *Safety and Stability for Foster Children: The Policy Context.* The Future of Children. http://www.futureofchildren.org/information2827/information_show.htm?doc_id=210483

³³ Westat and Chapin Hall Center for Children. *Assessing the context of permanency and reunification in the foster care system.* Washington, DC: Department of Health and Human Services, 2001.

3. *Rates of visitation.* Were the parents unwilling or unable to visit the child while he or she was in foster care?
4. *Child's expressed preferences on reunification, especially for older children.* The preferences of children are controversial to include.

DCF Procedure and Standards for Reunification

According to DCF procedure, the initial decision to remove a child from a home is based on two criteria: (1) probable cause, and (2) reasonable effort. For "probable cause," an investigator has to prove that in their professional judgment the child would be in eminent threat of abuse if left in the home. For "reasonable effort," the investigator has to prove that they attempted to prevent the removal of the child by resolving the problem.

Section 39.301, F.S., requires that DCF determines immediate and long-term risks through the "utilization of standardized risk assessment instruments," and provides that factors the department may consider in establishing risk include, "but are not limited to, the young age of the parents..., the use of illegal drugs, or domestic violence."

The instrument currently used in determining safety is the Child Safety Assessment. Utilizing this tool, the protective investigator assesses the immediate safety risk(s) for each child in an investigated family within 48 hours of making face-to-face contact with the alleged victim and family. The assessment, along with any safety actions taken or proposed by the investigator, is then reviewed by the investigator's supervisor for appropriateness. Supervisors are required to attain a second party review in certain high-risk cases, such as when the caregiver is responsible for the death or serious injury of another child. A review is also to occur if at least two of the following three factors are present: (1) the child is age four years or younger or is non-verbal; (2) there are prior reports involving the child regardless of findings; and (3) there is a current report of actual serious or severe injury, neglect, or threatened harm.³⁴

Decisions after the initial removal are made by multiple parties. Generally speaking, all cases are staffed with Child Welfare Legal Staff (CWLS) to determine "legal sufficiency" prior to going before the court. Both the investigator (or a departmental designee if he or she is unavailable) and the CWLS attorney are present in the courtroom before the judge, even if the court action takes place during the weekend or after normal working hours.³⁵

The Child Safety Assessment is an online document that investigators complete upon return to the office. The form allows for the evaluation of multiple children and multiple alleged perpetrators within the same home or family. The aspects evaluated are comprehensive and regard the apparent wellness of the child, home, caregivers, prior history of abuse, criminal records, and so on. However, input on each factor appear to be

³⁴ OPPAGA Progress Report. Dec. 2002. Report 02-65. *The Department Still Lacks Data Needed to Assess the Child Safety Administrative Review Process.* <http://www.oppaga.state.fl.us/reports/pdf/0265rpt.pdf>.

³⁵ Communication with John Harper, Operations & Mgmt Consultant Manager, Protective Investigations, Department of Children & Families. December 6, 2005.

binary or descriptive, as opposed to measured on an ordinal scale. The assessment form is summarized in the Appendix.

An alternate assessment instrument tool is used in North Carolina. The North Carolina Family Assessment Scale (NCFAS-R) for Intensive Family Preservation Services (IFPS) Programs incorporates many of the same factors as Florida's system. However, in contrast to Florida's binary "yes-no" way of measuring many of the criterion, the NCFAS-R involves a six-point scale for each factor.³⁶ Perhaps the process of quantifying each observation more thoroughly adds to the testability and standardization of the instrument. At the very least, more precise measures of child safety can be accomplished with more precise instruments. This could lead to the development of standard thresholds to determine levels of safety beneath which a child may not be reunified.

Standards as they Relate to Interactions between DCF and Court Decisions

Case investigators use standard measures for evaluating safety and every assessment is to be conducted with identical procedure. According to statements by the DCF, even with the strictest protocol in place, final decisions about reunification will always be open to interpretation and the judgment calls of individuals.

Although the "decision to reunify" is often treated as a unified or single judgment, there are two separate decision-making components:

1. The recommendation of the DCF and guardian ad litem for or against reunification.
2. The final ruling of the court for or against reunification.

For some DCF administrators there is concern and frustration about situations where the agency and guardian ad litem recommend parental termination, but the judge sends the child home regardless. In some cases, a child is removed from the family home numerous times and reunified numerous times at a judge's insistence.

Given the importance of these court interactions, it may be worthwhile to evaluate whether reunification outcomes are significantly different when the decision for reunification was supported by the agency, or decided against the agency's recommendation. In other words, what percentage of reunifications that resulted in repeat maltreatment or reentry to foster care occur after the agency recommended that the child not be reunified?

This information would indicate whether poor outcomes are resulting from poor standards for reunification, including problems with assessment tools or case workers, or perhaps from aspects in the legal environment that are separate from agency decisions. When the media reports that a child has been returned home and then abused or killed, the agency preferences are not distinguished from court decisions. Further analysis of this type of data could lead to more successful and targeted policy reform.

³⁶ The North Carolina Family Assessment Scale on Reunification.
http://www.nfnp.org/reunification/assessment_tool.php.

Implications and Recommendations

The decision of whether a child returns home after foster care lies in the judgment of individual social workers, lawyers and courts. Though judgments are assumed to be made with the best of intentions and based on observations of the child's circumstances, judgments also lack consistency between cases.

At the same time, failures observed in reunification efforts may have as much to do with other factors, completely separate from safety standards or actions at the agency level. Successful reforms in child safety may require additional research to diagnose at which points in the system breakdowns are most likely to happen. The following recommendations are areas for future evaluation:

1. Reconcile possible conflicts in the goals of "reunification" and "repeat maltreatment"
By mandating that the state or counties accomplish determined rates for both goals of "reunification" and "less repeat maltreatment," the system may be set up for failure. Research suggests that by successfully achieving the reunification goal, a state may decrease performance on other measures that are more important to child safety such as repeated maltreatment and returns to foster care.
2. Develop assessment tools with increased precision and variance in measures
Binary ("Yes/No") measures of safety factors on the Child Safety Assessment (see Appendix) may not be as useful or reliable as ordinal measures that provide a scale for recording observations. Ordinal scales provide greater opportunity for setting thresholds and standards of child safety.
3. Analyze differences in reunification outcomes when the court concurs with or rules against DCF recommendations
At this point, it is unknown whether reunifications are more likely to fail when the decision made by the courts was consistent with the recommendation of the DCF or whether it was against agency advice. This information may be critical in determining at which point in the decision-making process judgments are faltering. If there is, in fact, a problem with safety standards themselves, there would be equal or greater failure in those cases where the court decision for reunification was also recommended by the agency. If, however, standards are appropriate and well-measured, there would be greater success from court decisions that are consistent with DCF's recommendation.
4. Evaluate whether reforms to criminal code on abuse and neglect could prevent abusive parents from achieving reunification
Currently in Florida statute, all types of abuse and neglect against a child are considered felonies of some degree. If misdemeanor charges could be

established for certain types of abuse or neglect offenses, it may provide an additional obstacle for abusive parents in their efforts to reunify.

5. Consider post-reunification pilot programs to increase success

There are a variety of pilot programs or statutory options for improving Florida's reunification services. Especially given the flexibility inherent in the community-based structure of child welfare, regions may be encouraged to pursue more intensive services to families that are likely to be reunified. ASFA makes available federal funding for reunification services.

APPENDIX

The Child Safety Assessment – Basic Assessment Measures

- Is the child age 4 or younger or nonverbal?
- Does the child stay in a place with hazardous physical living conditions?
- Is the family's whereabouts unknown, or there is reason to believe that the family is about to flee or refuse/limit access to child(ren)?
- Does the child have developmental, physical, emotional, or medical condition that increases vulnerability?
- Does the child exhibits behavior(s) that may be indicative of abuse or neglect such as:
 - Enuretic and/or encopretic
 - Physical harm to self
 - Uses drugs/alcohol; physical aggression/threats
 - Fire setting
 - Age-inappropriate sexual behavior(s) and/or knowledge
 - Runs away from home
 - Has suicidal thoughts / threats
 - Sexual aggressor
 - Expresses fear of caregiver(s) and/or others living in or frequenting the home
 - Excessive School absenteeism
- The parent, caregiver(s) or household members:
 - Is responsible for death or serious injury of another child
 - Has a history of domestic violence as a victim or possible responsible person
 - Has a criminal history, regardless of disposition, that presents potential threat
 - Describes or acts toward child(ren) in predominantly negative terms or has unrealistic expectations
 - Has made a plausible threat that would result in serious physical harm
 - Has limited community visibility and outsiders cannot observe the condition of the child(ren)
 - Has not or cannot meet child's needs for food, clothing, shelter, medical care or protection
 - Age, apparent mental health condition, or drug or alcohol use, affects ability to provide adequate care
- There are prior reports involving any of the subjects of current report, regardless of finding.
- There is a pattern of continuing, escalating or increasing frequency of incidents, regardless of finding.

- Subject(s) of the report has been responsible for acts of animal cruelty.
- Child physical or sexual abuse is suspected and the possible responsible person is or remains unknown.
- The possible responsible person continues to have access to child(ren), and non-offending caregiver is unable or unwilling to protect the child(ren).
- Person(s), biologically unrelated to alleged child victim(s), is visiting or part of household.
- Maltreatment severity; The actual injury, neglect, or threatened harm is serious or severe:
 - Child death
 - Inflicted fracture, inflicted burn, abdominal injury, head trauma, or bite marks
 - Bruises in any child less than 6 months old; extensive body bruising, especially of head or torso
 - "Crack house" or similar environment
 - Sexual abuse or exploitation
 - Failure to thrive with decreased body weight, length, head circumference or developmental delay
 - Bizarre punishment or confinement
 - Medical attention was required as a result of actual injury, neglect or threatened harm
- Relevant risks need to remain under consideration for future safety actions.
 - Possible caregiver responsible has left home voluntarily
 - Family members moved into the house
 - Relocation of non-offending caregiver and child(ren)
- Does criminal history exist?
- Does analysis of criminal record indicate a current threat to child(ren)'s safety and permanency based on the subject involvement in:
 - Child Abuse
 - Domestic Violence
 - Physical Violence
 - Sexual Offences
 - Alcohol , Drugs (DUI, etc)
 - Use of deadly weapon
 - A pattern of continuing, escalating and/or increasing the frequency of incidents
 - Probation or parole officer involved

- Analysis of prior reports/service records on the parents(s) or caregiver(s):
 - Has demonstrated an understanding for each child's specific behaviors and needs.
 - Has adequate financial resources AND manages so that child(ren)'s needs are met.
 - Communicates and interacts with child(ren) in a constructive manner free of verbal and mental abuse.
 - Has relationship with spouse/partner that doesn't adversely affect ability to protect and nurture.
 - Has demonstrated adequate comprehension and problem-solving skills.
 - Has a childhood history free of abuse and neglect.
 - Has available adequate support system.
 - Has demonstrated a willingness and ability to follow through with actions, referrals and services.